

The Legal Morass Into Which the House Fell in Its Haste to Punish

The No. 1 Issue in the Exclusion of Adam Clayton Powell

If Adam Clayton Powell were a white member of the House of Representatives, we would all agree without difficulty that he deserved some form of punishment for his conduct. But Congressman Conyers of Detroit, the one Negro on the committee which investigated Powell, sought very wisely to distinguish two different powers of the House. One was its power to punish a member for misconduct, the other its power to exclude a duly elected Representative.

Sentence Without Trial

The committee investigating Powell recommended fines and censure and loss of seniority as a way of appeasing the anti-Powell sentiment in the House and saving his seat. But fines are a form of punishment for courts to impose after trial, and censure seemed to us (as to Conyers) offensively disproportionate. There have been only three cases of censure in the history of the House and these all involved bribery. The offenses of which Powell is accused are neither so major or so clear (see the Comptroller General's letter, pps. H934-6, *Con. Rec.* March 1) as to warrant so humiliating a punishment. The House is still unwilling to deal effectively with the far more serious abuse involved in conflicts of interest.

It seems to us unfair to punish Powell by censure, fine or otherwise without a trial. The charges against him fell into two categories. One was the misuse of public funds; the other, his disobedience of New York court orders. The former involved a violation of the law, to be tried like any other crime in a court of law; the House could not properly act as judge and jury, without the semblance of trial. The latter was even more a question for adjudication in the courts, since it involved alleged contempts. The tangle in the New York Courts has yet to be finally unravelled, and Powell seems to be winning on certain crucial aspects.

The House decision to exclude Powell sets a dangerous precedent, as Congressman Celler warned. It is unfortunate that the intent of the Framers, the language of the Constitution and the existing precedents are fuzzy. The only qualifications for admission to membership are age, citizenship and residency, according to one provision of the Constitution. But another says "Each House shall be the judge of the elections, returns and qualifications of its own Members." How to reconcile them is a puzzle.

Gruening: No Draftees for Vietnam

"President Johnson's request of March 6, 1967, that the Selective Service Law, due to expire on June 30, be extended for four years, should give the Congress an opportunity to examine the moral and legal bases for sending draftees to fight, against their will, in Vietnam—in an undeclared and illegal war 10,000 miles from our shores. As I did in the last Congress it is my intention to introduce an amendment providing that no draftee can be sent to Southeast Asia without his consent. . . . The President has not asked Congress for a declaration of war yet he seeks authority to draft American boys and send them to Southeast Asia to fight in bloody, cruel military battles unsanctioned by law. Is it any wonder that many thousands of American boys are morally tormented about fighting in Vietnam? The Johnson Administration is telling the American people repeatedly that the dangers from the Soviet Union are less and less. . . . Yet the same Administration tells the American people the dangers of Soviet aggression in Europe are so great and continuing that it cannot risk reducing its troop commitments in Europe—over 250,000 men—but must instead draft American boys to serve against their will in Vietnam. If men are needed to replace them, let the draftees be sent to Europe. . . . In 1965 there were 96,000 desertions from the South Vietnamese Army. In 1966 that figure had climbed to 110,000 men. No one knows how high it will go in 1967. . . . Are we drafting American boys to replace the South Vietnamese draft dodgers? That is directly contrary to President Johnson's own statement of Sept. 28, 1964, in which he said, 'We are not going north and we are not going south; we are going to try to get them to save their own freedom with their own men'."

—Gruening (D. Ala.) in the Senate March 10

But it is certainly true, as Mr. Celler argued, that it is "incompatible with democratic elections" to add qualifications beyond those enumerated. The precedents for excluding Powell indicate the danger. They were set in periods of popular passion against Mormons, Confederates and anti-war radicals. As Congressman Ryan of New York said, "If today the House is able to exclude a member because it disapproves of his conduct, tomorrow the House may feel free to do so because it disapproves of his opinions, philosophy or political action." This has become the No. 1 issue in the Powell case.

Another Item for Collectors of Plain and Fancy Lying in the Vietnam War

"Robert J. McCloskey, the State Department spokesman, was asked by newsmen whether the attack on the Thai Nguyen [steel plant in North Vietnam] represented escalation or a change in bombing policy. 'No, it does not,' he replied. 'It's a plant that is involved in fabricating steel that is used for barges. That is used to increase infiltration. It's steel that is used in bridges, all of which falls into the category of legitimate military targets'."

—New York Times, March 11 from Washington

"Completion of the Thai Nguyen plant had been scheduled for late this year. As of June 1966, intelligence sources said, the plant was capable of producing 200,000 tons of cast iron a year. The steel furnaces, which have not been

completed [emphasis added] had been expected to turn out 250,000 tons of steel annually."

—New York Times, March 11 from Saigon

"Dear Mr. Stone: I am a metallurgist by profession. The cast iron which is being produced at this (or any other) plant is not usable in bridges, barges or oil drums. It is a casting, not a rolled product. If you roll it, it cracks. You can't make girders or beams, plate or sheet, out of cast iron. The huge steel-making furnaces (necessary for melting steel) are evidently still inoperable, since they are not completed yet. You can't use half a furnace to make steel."

—A Reader

Why the Constituent Assembly Is As Undemocratic A Farce as The Military**What "Pacification" Really Means to Vietnam's Landless Peasantry**

In Vietnam, as in Washington, semantic trickery is the order of the day. "Pacification" means subjugation, and "Revolutionary Development Cadres"—the agents of pacification—are really counter-revolutionary police teams to subjugate the peasant. "Absentee landlords are still riding in with pacifying troops," writes Fred Emery, Saigon correspondent of the *London Times* (March 10), "not merely to grab back their lands but to extort back rents for the time they fled the Vietcong." Though a Ngo Dinh Diem law of 1955 limits rents to 25% of the crop, Emery notes that "landlords still extort rents as high as 60% of the product of a rice field" and adds "it is not hard to see why peasants keep their arms."

A Subject They'd Rather Avoid

Emery says "It may seriously be questioned whether any progress of lasting nature can be expected, in spite of military successes, so long as pacification continues without a real revolution in the Government's attitude towards land reform." He notes that "it is possible to listen to a senior OCO [Office of Civilian Operations, which handles the civilian end of the U.S. effort in South Vietnam] official talk for 90 minutes without once mentioning land—just as the subject has not found favor in the new Constituent Assembly." Emery fails to recognize that the Constituent Assembly is dominated by landlords, and that the American government has no real enthusiasm for land reform, especially since it would undercut the only class which supports the U.S. in the countryside.

The spectacle of landlords returning with the "pacification" teams to take back the land and collect back rents can hardly endear us to the peasants. "Senior American officials recognize the problem only too well," Emery writes, "and say, rather nervously, they are hoping the Government will shortly come up with a decree abolishing back rents." The "government" is the military junta. The Generals are either of, or linked to, the landlord class. To expect them to abolish back rents is as foolish as to expect them to decree land reform.

Richard Critchfield in the Washington *Sunday Star* (March 5) recalls that a year ago in Honolulu Johnson pledged "social revolution, including land reform", [Critchfield writes that the last three words were not in the original State Department draft for the Honolulu declaration but were added on "the insistence of the American counter-insurgency expert, Major General Edward G. Lansdale, Jr."]

Land reform was supposed to be the cornerstone of the new "revolutionary development program," but when Dr. Phan

The Kind of Regime Washington Likes

"Rio de Janeiro—This is the country that less than three years ago threatened to become not merely another Cuba but perhaps something close to another Red China. . . . To be sure the military regime . . . has been no model of democratic permissiveness. Brazilian journalists deemed too unfriendly to the government may find themselves behind bars. . . . More important than dictatorial benevolence are the clear signs of improving health being shown by the economy. . . . Price increases on everything from chicken feed to newspapers still occur regularly. The government printing presses continue to spin out cruzeiros . . . but U.S. firms are leading the investment parade. . . . Under a new investment guarantee agreement with the U.S., Brazil since 1965 [when the military took over—IFS] has approved more than \$120 million worth of new projects by U.S. firms . . . beside the rules limiting pay increases to percentages well below the rate at which the cost of living is rising, there is an almost total prohibition against strikes."

—Wall Street Journal, March 9

Quang Dan last December proposed that the Constitution guarantee every Vietnamese peasant the right to own the land he tilled, the measure got only 3 out of 117 votes. "Many deputies," Critchfield writes, "said it sounded 'too much like communism.' He says later Dr. Dan 'succeeded in getting a much milder proviso adopted pledging government help to the landless.'" But this (we discovered recently) says only (Art. XX) "The State advocates raising the standard of living of rural citizens, and especially helping farmers to have farmland." Just how is left unclear. Article XVIII guarantees the right of private property and says "expropriation or requisition for the common good must be accompanied by speedy and just compensation at price levels existing at the time of expropriation or requisition." This makes it impossible to pay for land reform in bonds nor to buy land at its original cost or tax valuation or even to take into account that it may have been acquired unlawfully. Such constitutional provisions are an obstacle to peaceful land reform in Latin America.

In the Mekong Delta, Critchfield writes, 50 percent of the peasantry is entirely landless and 80 percent rents all but a small part of their ricelands. Thus for the majority of the people the landlord-dominated Constituent Assembly is as unrepresentative a farce as the military junta.

In Latin America, Too, Talk of Land Reform Doesn't Match the Realities

"Men whose fathers for generations have worked land owned by others now work it as their own."

—LBJ's message to Congress on Latin America March 13

"The implementation of legislation affecting the agrarian structure is still slow; the distribution of land and other productive resources among the rural population remains very unequal, and potentially productive land, water and human resources are seriously underutilized in the rural areas. . . . Among the various types of land reform, slowest progress in 1966 was land redistribution. In Colombia,

the land reform agency acquired or expropriated with compensation only 21,000 hectares . . . and established little more than 2,000 families. . . . In Chile only 1800 families received family-size parcels. . . . In the Dominican Republic, although several hundred thousand hectares of fertile land are in the possession of the Agrarian Institute, the rate of systematic settlement is currently only 1,000 families a year, or less than 0.5 percent of the number of families working on subsistence tracts of one hectare or less.

—Sixth Annual Report, 1966, Social Progress Trust Fund, Inter-American Development Bank, released Mar. 16.